

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) Cr. No. 09-10166-MLW
)
 SALVATORE F. DIMASI,)
 JOSEPH P. LALLY, JR.,)
 RICHARD W. MCDONOUGH,)
 and RICHARD D. VITALE,)
 Defendants.)

ORDER

WOLF, D.J.

November 16, 2009

For the reasons described in court on November 12 and 13, 2009, it is hereby ORDERED that:

1. Attorneys Thomas Kiley and William Cintolo may continue to represent defendant Salvatore F. DiMasi. Kiley, Cintolo, and DiMasi shall promptly notify the court if as a result of newly discovered information it appears that Kiley or Cintolo may have divided loyalties or be a necessary witness in the case.

2. With the agreement of the parties, defendant Richard D. Vitale's Application for Issuance of Fed.R.Crim.P 17(c) Subpoena Duces Tecum Returnable Pretrial by the State Ethics Commission (Docket No. 110) is ALLOWED. Vitale shall confer with the government and submit his proposed subpoena to the Deputy Clerk to be issued.

3. The government's Motion to Unseal Vitale's Redacted Ex Parte Application for Fed.R.Crim 17(c) Subpoenas and Government's Opposition (Docket No. 116) and Government Motion to Unseal

Defendant's Pleadings: Docket Nos. 104 and 112-115 and Government Responses (Docket No. 120), are ALLOWED. The documents listed in Exhibit A, attached hereto, are hereby UNSEALED.

4. Defendant Richard D. Vitale's Ex Parte Application for Issuance of Fed.R.Crim.P. 17(c) Subpoena Duces Tecum Returnable Pretrial (Docket No. 108) is DENIED without prejudice.

5. DiMasi's Motion for Discovery in Connection with Motion to Dismiss (Docket No. 115) is DENIED.

6. By November 25, 2009:

a. Defendants shall file any motions to join any co-defendants' motions.

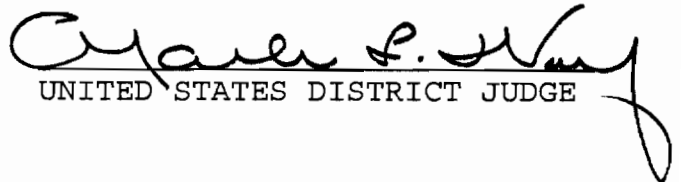
b. The government shall respond to defendant Joseph P. Lally's Motion for Request for Legal Instructions Provided to Grand Jury and to Dismiss Indictment.¹

7. The government shall respond to the defendants' other pending pretrial motions by December 18, 2009. Any replies shall be filed by January 22, 2010. Any sur-replies shall be filed by February 5, 2010. In their submissions, the parties shall identify which issues concerning "honest services" are and are not presented in the cases now pending in the Supreme Court. They shall also promptly inform the court of any relevant new decisions by the Supreme Court or First Circuit.

¹This deadline was not established at the hearing held on November 13, 2009.

8. A hearing on all pending motions will be held on March 15, 2010, at 9:30 a.m., and will continue if necessary on March 16 and 17, 2010.

9. As agreed by the parties, the ends of justice outweigh the best interests of the public and the defendants in a speedy trial and, therefore, the time between June 2, 2009, and March 17, 2010, is excluded for Speedy Trial Act purposes. See 18 U.S.C. §3161(h)(7)(A).


UNITED STATES DISTRICT JUDGE